

ARKANSAS COURT OF APPEALS

DIVISION III

No. CA08-837

CURTIS W. JONES

APPELLANT

V.

AAC RISK MANAGEMENT  
SERVICES; Crawford County, Arkansas;  
and Second Injury Fund

APPELLEES

Opinion Delivered February 4, 2009

APPEAL FROM THE ARKANSAS  
WORKERS' COMPENSATION  
COMMISSION  
[NO. F704625]

AFFIRMED

JOSEPHINE LINKER HART, Judge

Though the Arkansas Workers' Compensation Commission found that appellant, Curtis W. Jones, proved by a preponderance of the evidence that he sustained a compensable injury, the Commission further found that he was not entitled to medical benefits or temporary total disability benefits. On appeal, appellant urges that he is entitled to both.<sup>1</sup> We affirm the Commission's decision.

An employer must "promptly provide for an injured employee such medical . . . services and medicine . . . as may be reasonably necessary in connection with the injury

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<sup>1</sup>We observe that appellees' statement of the case indicates that the "Commission held that the claimant sustained a temporary aggravation of a preexisting condition and denied temporary total disability benefits and medical benefits after October 25, 2007," and that appellees' conclusion states that the Commission "found that [appellant] sustained a compensable temporary aggravation and awarded six months of benefits." Further, the Commission found that appellant "failed to prove by a preponderance of the evidence that he is entitled to *additional* temporary total disability benefits." (Emphasis added.) Thus, we limit our analysis to whether the Commission's decision to deny benefits after October 25, 2007, was supported by substantial evidence.

received by the employee.” Ark. Code Ann. § 11-9-508(a) (Supp. 2007). What constitutes reasonable and necessary treatment is a question of fact for the Commission. *Gansky v. Hi-Tech Eng’g*, 325 Ark. 163, 924 S.W.2d 790 (1996). To receive temporary total disability benefits, claimants must prove by a preponderance of the evidence that they were within a healing period and totally incapacitated from earning wages. *Hickman v. Kellogg, Brown & Root*, 372 Ark. 501, \_\_\_ S.W.3d \_\_\_ (2008). The “healing period” is the “period for healing of an injury resulting from an accident.” Ark. Code Ann. § 11-9-102(12) (Supp. 2007). The determination of when the healing period has ended is also a question of fact for the Commission. *Hickman, supra*. On appeal, we view the evidence in a light most favorable to the Commission’s decision and affirm if the decision is supported by substantial evidence. *Id.* Further, if the Commission denies a claim because a claimant failed to meet his burden of proof, we affirm the Commission’s decision if its opinion displays a substantial basis for the denial of relief. *Id.*

It is uncontested on appeal that on April 25, 2007, appellant suffered a compensable injury in his employment as a jailer for appellee Crawford County, Arkansas, when he slipped and fell. Before the Commission, appellant asked for an award of medical benefits and temporary total disability benefits.

Pertinent to its decision, the Commission found that appellant suffered from severe degenerative disc disease. Further, the Commission relied on the opinion of Dr. Bradley Short, an independent medical examiner, who reviewed appellant’s medical records and opined that appellant reached maximum medical improvement six months after his reported

injury, on October 25, 2007. As part of his written evaluation of appellant, Dr. Short answered the following question: “In reviewing the CT of the lumbar spine of 10/10/2002, and the CT of the lumbar spine 4/25/2007, and the MRI of the lumbar spine 4/26/07, are there any changes of the objective findings noted as a result of the reported 4/25/07 work related injury?” Dr. Short replied, “There does not appear to be any findings which would be directly related to his industrial injury of 4/25/2007.” With regard to medical treatment, Dr. Short concluded that it appeared appellant had been “treated appropriately.” He noted that appellant reported being on “narcotic pain medication for a number of years.” He recommended a series of three epidural steroid injections, if appellant had not had yet undergone them, which was “in addition to pain management, which he has been receiving for a number of years.” Dr. Short further opined that appellant’s “injuries are more of an exacerbation of a previous chronic condition.”

On appeal, appellant challenges the denial of medical benefits and temporary total disability benefits. For myriad reasons, he challenges the Commission’s reliance on Dr. Short’s conclusions. We note, however, that questions concerning the credibility of witnesses and the weight given to their testimony are within the exclusive province of the Commission. *Hickman, supra*. This weighing was within the Commission’s prerogative.

Relying on Dr. Short’s opinion, the Commission concluded that although appellant “suffers from severe degenerative disc disease and has multiple bulging discs in his spine, [appellant’s] compensable injury did not cause this condition,” and that appellant “suffered a slip and fall accident which resulted in back pain and muscle spasms superimposed upon an

already severely degenerated spine.” Further, the Commission noted that appellant had received the series of epidural injections recommended by Dr. Short and that appellant was already under a regimen of pain management for his pre-existing degenerative disc disease. And relying on Dr. Short’s conclusions, the Commission found that appellant reached the end of his healing period from his slip and fall on October 25, 2007.

Thus, given that appellant had reached maximum medical improvement from his slip and fall on October 25, 2007, that he had already received the series of epidural injections, and that he was undergoing pain management for his pre-existing condition, there was a substantial basis for denying appellant medical benefits beyond October 25, 2007, as such benefits were not reasonably necessary in connection with his slip and fall injury received by appellant. Furthermore, given that appellant reached maximum medical improvement on October 25, 2007, there was a substantial basis for denying temporary total disability benefits after that date, as his healing period had ended.

Affirmed.

PITTMAN and BROWN, JJ., agree.